

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**VINCENT PACELY,**

**Plaintiff,**

**v.**

**No. 12-cv-0152 MCA/SMV**

**MARK LOCKETT,  
GERALD CHAMPION REGIONAL MEDICAL CENTER,**

**Defendants.**

**ORDER SETTING SETTLEMENT CONFERENCE**

THIS MATTER is before the Court on the Rule 16 Scheduling Conference, held on April 3, 2012. To facilitate a final disposition of this case, a mandatory Settlement Conference will be conducted in accordance with Rule 16(a)(5) of the Federal Rules of Civil Procedure. The conference will be held on **September 5, 2012 at 9:00 a.m.** in the Doña Ana Courtroom, third floor, United States Courthouse, 100 N. Church Street, Las Cruces, NM.

The parties or a designated representative, other than counsel of record, with full authority to resolve the case, must attend in person. Counsel who will try the case must also attend in person.

No later than **August 22, 2012**, Plaintiff shall serve on Defendants a letter setting forth at least the following information: (a) a brief summary of the evidence and legal principles that Plaintiff asserts will allow him to establish liability; (b) a brief explanation of why damages or other relief would be warranted; (c) an itemization of the principles supporting those damages; and (d) a settlement demand.<sup>1</sup> No later than **August 26, 2012**, Defendants shall serve on Plaintiff a letter that

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<sup>1</sup>If the parties have engaged in settlement negotiations, [Plaintiff's/Plaintiffs'] demand should be lower than [Plaintiff's/Plaintiffs'] most recent demand.

sets forth at least the following information: (a) any points in Plaintiff's letter with which the defense agrees; (b) any points in Plaintiff's letter with which the defense disagrees, with references to supporting evidence and legal principles; and (c) a counteroffer.<sup>2</sup> If a release is contemplated, defense counsel shall include a proposed form of release with the letter. Each of these letters typically should be five pages or fewer, and counsel must ensure that each party reads the opposing party's letter before the Settlement Conference. If the case does not settle, Plaintiff shall provide copies of these letters to the Court no later than **5:00 p.m. on August 29, 2012**.

No later than **5:00 p.m. on August 29, 2012**, each party must provide the Court, in confidence, a concise position statement (typically no more than ten pages) containing an analysis of the strengths and weaknesses of its case. Position statements must be submitted to the Court by e-mail at **VidmarChambers@nmcourt.fed.us**.

Furthermore, if any party has in its possession any video or audio recordings of the incident upon which this action is based, that party must submit a copy of the recording to the Court no later than **5:00 p.m. on August 29, 2012**.

The Settlement Conference may not be vacated or rescheduled except upon motion for good cause shown. Any motion to vacate or reschedule the Settlement Conference shall provide the Court with sufficient notice to ensure that other matters may be scheduled in the time allotted for the Settlement Conference.

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<sup>2</sup>If the parties have engaged in settlement negotiations, [Defendant's/Defendants'] counteroffer should be higher than [Defendant's/Defendants'] most recent counteroffer.

**IT IS THEREFORE ORDERED** as follows:

**Plaintiff's letter and settlement demand due  
to Defendants:**

**August 22, 2012**

**Defendants' letter and counteroffer  
due to Plaintiff:**

**August 26, 2012**

**Plaintiff provides copies of settlement letters  
to the Court by:**

**August 29, 2012 by 5:00 p.m.**

**Plaintiff's confidential position statement due to  
the Court:**

**August 29, 2012 by 5:00 p.m.**

**Defendants' confidential position statement due  
to the Court:**

**August 29, 2012 by 5:00 p.m.**

**Settlement Conference:**

**September 5, 2012 at 9:00  
a.m.**

**IT IS SO ORDERED.**



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**STEPHAN M. VIDMAR**  
**United States Magistrate Judge**